WOMAN SUFFRAGE IN LOCAL SELF-GOVERNMENT.

THE object of the campaign in favor of woman suffrage that is being carried on in various countries of the old and of the new world is sometimes to gain for women a full franchise, sometimes to secure for them only a vote in local affairs. The advocates of "women's rights" are perfectly willing to accept local suffrage so far as it goes, regarding this as the proverbially difficult first step. On the other hand, where women already vote in local elections, as in England, these reformers denounce the logical absurdity involved in giving a person a vote in the one case and withholding it in the other, when the general conditions under which suffrage is exercised are in both cases the same.

In fact, women already have local suffrage in many countries, but have obtained the political franchise in almost none. How has this come to be the case? Is there anything illogical in the distinction? Does the local vote involve, as a necessary consequence, the right to political enfranchisement; and, *vice versa*, does the denial of the latter right put the former in question? To answer these questions, we must ascertain, first of all, upon what conditions local suffrage has been granted to women in the various countries where it has been granted, and what are the circumstances that have led to its being granted at all. In this way we may gain both a scientific and a practical result: something may be added to the science of comparative legal history, and perhaps the solution of the political controversy may be made easier.

In this article I propose to undertake such a study in history and comparative legislation.

I. *Primitive and Mediaeval Communities.*

It is necessary to remember always, in this discussion, that the sphere within which local self-government acts is primarily

that of local economic interests, and that it is only in second instance that powers of a political character are added. These last are powers of too complex a nature to be successfully exercised by the general government; and accordingly they are partly delegated, in all free countries, to the organs of local self-government. In character and in competence these organs are therefore partly public and partly private, some of them exhibiting more of the one element, others more of the other.

(1) The primitive type of self-government, the village community in the middle ages, found its origin, its basis and its cause for existence in the management of the common property. It was a natural, a spontaneous association, devoid of any political character. With all the autonomy which it succeeded in gaining, it had so little to do with political matters — it had, above all, so little connection with political liberty — that it has been able to exist under the most different systems of government, not excepting the most despotic. It is found in India to-day, with the same character as in Europe in the middle ages. Conquerors succeeded conquerors on the banks of the Ganges; the autonomous rural commune remained intact.[1] So in Europe, also, it has existed together with serfdom, and it exists to-day under the Russian autocracy. Collectivistic at the outset, — and so in some places at the present day,[2] — the village community permits a gradual emergence of individual property; but beside the land held in severalty, it preserves for the general use undivided property, commons, *Allmende*. Here, in the common interests connected with the forests, the pastures, the wells and the village-watch, the community system reasserts itself and maintains a vigorous existence for centuries. Not that it rises to the idea of juristic personality; on the contrary, the villagers do not distinguish the commune from the individuals who inhabit it. It does not occur to them that communal questions can be decided otherwise than by the agreement of all: in order that the com-

[1] *Cf.* G. L. Gomme, The Village Community (London and New York, 1890).

[2] So, to a certain extent, in Russia; and so even in Germany, in certain backward districts. On this last point, *cf.* R. Morier, Systems of Land Tenure in Various Countries; cited by Sir H. Sumner Maine, Village Communities (3d ed. London, 1876), p. 78.

mune shall do anything, it is necessary, according to them, that each of its members shall raise the arm; in order that it shall move in this or that direction, it is necessary for each to thrust out the foot. Thus, for example, in the Russian village assemblies of the present day it is remarked that there is a strong feeling against decisions by simple majority.

In the opinion of the *moujik* everything in the *mir* should be done by agreement; it is the concert and common will of the members of the assembly which constitute its authority. That a decision should be regarded as valid, as free from error or fear, as binding upon all, it is necessary in this primitive democracy that it should have the support or at least the recognition of all.[1]

The same was true in the communities of the middle ages, and particularly in the village assemblies in France. To them came "all who would, should and could," — "touz ces qui hont voluy, dehu et pehu," — as is said in a communal document of Burgundy, concerning a piece of communal business in 1331. Women appeared there by the same right as the men. "Their consent," says M. Babeau, "added to the validity of the contract, which was not binding upon those who were not mentioned in it."[2] Nor was there any age qualification: every person who had an interest had a place in the assembly. The name alone by which the communal right was frequently described showed how extensive it was: it was called right of vicinage, and the members of the assemblies were *les voisins* and *les voïsines*.[3] A document concerning a contract of infeoffment concluded with the abbé of St. Savin in 1316 declares that the neighbors of Cautarets, male and female, "bésis et bésies de Cautarès,"

collectively and individually, present and consenting, being neither deceived nor seduced nor misled by artful promises nor constrained by force, but of their free consent and will, in full knowledge of the matter,

[1] Anatole Leroy-Beaulieu, L'Empire des Tsars (Paris, 1881), II, 34. *Cf.* the similar remarks (of earlier date) in Ashton Dilke, Essays on Local Government (Cobden Club Series, London, 1875), p. 94.

[2] Le Village sous l'Ancien Régime (Paris, 1878), p. 23.

[3] So especially in Bigorre. De Lagrèze, La Féodalité dans les Pyrenées (Paris, 1864), p. 82.

have declared their unanimous approval, with the exception of Gaillardine de Frechon (tots exceptat la dite Gailhardine del Frexo).[1]

In another document, three centuries later (1612), relating to the communal constitution adopted for a village in Scey-sur-Saône, we learn that it was drawn up in the presence of the notables of the place, assembled "sous l'orme estant devant le fourg banal où les ditz habitants ont coustume de s'assembler pour les négoces de leur communauté"; and that among these notables two women appeared, a widow and a girl.[2] It is not easy to establish with certainty whether the participation of women in the communal assemblies was a matter of right or an exceptional occurrence. M. Babeau, who thinks it was the exception, himself admits that it is difficult to determine for certain epochs who were members of the village assemblies and who were not.[3]

(2) In France as elsewhere the triumph of the absolute monarchy, with its all-absorbing centralization, destroyed the communal autonomy of the villages. The levelling storm of the revolution extinguished what little life they had left. The rural communities were assimilated to the city communes, both becoming administrative subdivisions cast in the same mould. At the same time, it is true, the levelling state was good enough to grant to the inhabitants of the cities and of the country the same political rights. These rights have covered, not to say flooded, the whole surface of local public life. Although, by reason of the occupations of its inhabitants, the rural commune has continued to concern itself mainly with concrete homogeneous interests of a private character, communal rights as such have been swallowed up in political rights, and the members of the commune have been merged into the general body politic. And as the women did not form part of the latter body, they found themselves formally excluded from communal rights, even when the commune busied itself simply with the

[1] *Cf.* the *vicini* in the title De Migrantibus of the Lex Salica.

[2] Revue des Sociétés Savantes des Départements, 5me série, tom. i, année 1870 (Paris, 1871), p. 510.

[3] *Loc. cit.*

material interests of its inhabitants. Such were the effects of the revolution as regards local self-government.

One solitary decree of the Convention, which had otherwise shown little tenderness for "women's rights," [1] conferred upon them the suffrage in a special case, *viz.* the partition of the common property. For the purposes of this transaction the village community presents itself to the mind of the legislator in its ancient conception, with its primitive *raison d'être;* and the legislator himself is transported to the past, to the time of *voisins* and *voisines.* For the special occasion he convokes men and women, "collectively and individually"; only the meeting-place is no longer "beneath the elm that stands before the common bake-house," but in the polling booth. The decree of June 10–11, 1793, which directs the municipal authority to summon the inhabitants to deliberate upon the partition of the communal property, declares in article 5 that in the "assemblies of inhabitants" convoked for this purpose "every person of either sex having a right to partition [*i.e.* holding an undivided share of the common property] and being twenty-one years old, shall have a right to vote."

The establishment of universal suffrage under the second republic deprived communal right of that frail economic basis which the property qualification had furnished. Women could no longer plead to be admitted to the enjoyment of communal right on the ground that they were municipal stockholders; for the stock company had been dissolved. Henceforth they could base their claims on philosophical grounds only. Pierre Leroux took charge of their case in the Legislative Assembly. On the twenty-first of November, 1851, during the discussion of the communal elections bill, he offered an amend-

[1] The Convention adopted numerous measures against female politicians, decreed the suppression of women's clubs and societies, forbade their assembling, *etc.* The speeches delivered in the great revolutionary assembly on these occasions were extremely hostile to women politicians. Representative Amar, who demanded that measures be taken against them in the name of the Committee of Public Safety, cried: "Ought women to exercise political rights and participate in the affairs of the government? Public opinion repels the idea." — Reprint of the old *Moniteur*, XVIII, 299.

ment to the clause reading: "The list of electors shall consist of the Frenchmen of full age." The substitute proposed by the St. Simonian philosopher read: "Frenchmen and Frenchwomen of full age."[1] It was not adopted.

(3) Although in the Teutonic world the difference between rural communities and city communes has not been completely swept away, yet here too the village communities have changed in character. The bonds of union formed in the sphere and on the basis of common interests, relaxed in proportion to the division of the common property and the disappearance of the reciprocal real servitudes which rested upon the private estates in the commune. As the economic basis of the old village community grew weaker, monarchic centralization, with regulations more vexatious and more penetrating than those of the seigniorial rule which it had replaced, began in its turn to contribute to the destruction of the rural community. During this process of disintegration, it is at one moment the personal, at another the real element[2] in the old communal association that comes prominently into view, no longer blended in a living whole, but separate and isolated.

In South Germany and in Switzerland communal right, or "communal citizenship" (*Gemeindebürgerrecht, droit de bourgeoisie*), came to depend upon descent from citizen parents; it was transmitted from generation to generation as a sort of inheritance; it was personal without being individual. But here also, the effect of the French Revolution, with its conception of "the man *per se*," was to individualize communal as well as political rights. For the attainment of equality of rights a conflict breaks out between the citizens (*Bürger*), the denizens (*Einsässe* or *Hintersässe*) and the residents (*Aufenthalter*), — a struggle of which Switzerland has been and still is the special arena.

[1] *Moniteur*, November 22, 1851.

[2] As a matter of fact, many intermediate shades also appeared during the transformation of the German communal system; but these need not be noticed here. It is sufficient to refer to the great work of O. Gierke, Das Deutsche Genossenschaftsrecht (Berlin, 1868), I, 725 *et seq.*

In the northern countries of the Teutonic world, however, a middle term was found for communal right; it came to be something between the personal right of a particular individual, detached from the soil, and the personal right "to bearer" as a male human being. The possession of real property was taken as the qualification for communal right, without regard to the person. Connection with a concrete group, which had given such a character of exclusiveness to the corporate life of the cities, was no longer required; but on the other hand no recognition was accorded to the atoms into which the political rationalism of the eighteenth century had resolved modern society.

The possession of real property having thus become the exclusive basis of the right, and the personality of the owner being completely disregarded, — how could the distinction of sex appear material? In fact, we find that almost everywhere in the Teutonic world where communal right is based on the possession of realty, — among the Anglo-Saxons, the Scandinavians, the Germans, — woman is admitted to the exercise of this right. The feudal rule that the law of the soil overrides the law of the person, which made women capable of succeeding to fiefs, even to the capital fiefs, and to the crown, — this rule reappears; but it is now applied in a manner that is at once broader and more narrow. Property in land having been democratized, there is no longer any distinction made between possessors who are noble and those who are not. But on the other hand, modern thought distinguishes public from private rights, and no longer permits the association of public powers with the exercise of a property right. While, therefore, the communal vote is given to women, by virtue and on account of such a right, just as it is given to companies and to juristic persons, care has been taken to limit it to those parts of the system of local self-government which are destitute of any political character, and which are concerned chiefly with the management of the economic interests of the locality. The development of modern civilization has produced its most marked social results in the cities; the new wants which it has created have

multiplied and complicated public functions there to such an extent that, when the powers delegated by the central government are also taken into account, the self-government of cities exhibits a character which makes them seem almost like states. Municipal suffrage has there acquired a range that almost makes it a political franchise. Consequently the communal suffrage of women has generally been confined to the country or to towns of minor importance. Where it is limited to the rural communes it encounters fewer obstacles, because in the agricultural districts the difference between the sexes is slighter in every respect.[1]

In certain countries the capitalistic character of the present economic system has introduced, side by side with the possession of realty, the payment of taxes as a qualification for casting a communal vote. Of course this rule inures to the advantage of women as well as of men, wherever the former are admitted to communal rights at all. But in those countries in which communal right no longer rests upon that material basis which gave to the old community its economic *raison d'être*, women are excluded from communal suffrage. Whenever they claim it under circumstances which take it out of the category of private rights, — for example, under the system of universal suffrage, where it is confounded with the political franchise, — they are absolutely non-suited.

Now that the origin and the nature of the communal suffrage of woman has been established, let us examine in detail the law relating to the subject in the various countries at the present day.

II. *England.*

"Local government in this country," says an English writer, "may be fitly described as consisting of a chaos of areas, a chaos of authorities and a chaos of rates."[2] Happily I have

[1] *Cf.* W. Riehl, Die Familie (Stuttgart, 1882) and especially chapter ii, on the Separation of the Sexes in the Progress of Civilization, in which the author shows how closely country women resemble men in their occupations, their manner of living, their figures, voices, heads, *etc.*, and how much more marked the line of separation becomes in city life, and in general in more highly civilized society.

[2] M. D. Chalmers, Local Government (London, 1883).

not to undertake the task of bringing order out of this triple chaos.[1] I shall confine myself to indicating the territorial divisions and the elective offices to which are assigned the public services of local government, in order to see what share of power is there allotted to women.

(1) The primary unit of which all the other organizations of the local government are made up is the (civil) parish. This is the old township. Its present name is derived from the ecclesiastical unit which has been grafted upon it and which, while preserving its own character, shares with the civil unit its administrative organs. The parish is the first district for the assessment of the poor tax — which is *per se* the most important business of English local government, and upon which also the assessment of many other rates is modelled. All who pay the poor-relief tax upon lands and houses in the parish, have votes in the parish vestry. Like the freemen of the township period, they meet in general assembly, known as the vestry, to decide upon their common affairs. The votes are reckoned in proportion to the taxes paid, on the basis of one vote for each fifty pounds of assessed value, up to a limit of six votes. In the populous parishes the full assembly can delegate its powers to a council chosen from among its members, the "select vestry." To take part in the vestry meeting residence is not requisite; payment of the rates is all that is necessary. Thus personal ties are wholly disregarded; property alone is taken into account; and all its representatives without exception are entitled to vote, women as well as commercial companies. I must hasten to add that at the present time the vestries have few powers: their functions have been transferred little by little to other bodies. The most important of these functions, the poor relief, has been almost entirely vested, as a result of the great reform of the poor laws in 1834, in the guardians of the poor; and a number of other

[1] I can do no better than refer the reader who desires information concerning English local government to the work of Chalmers just cited, and to the articles by Professor Frank J. Goodnow, in the POLITICAL SCIENCE QUARTERLY, II, 638; III, 311.

local-government powers have since been transferred to these officers. In the election of guardians women take part precisely as in the parish vestries; for the guardians are chosen in each parish by the ratepayers.

A word in regard to the manner in which women cast their votes. In the vestry meetings they take part in person, just as the *voisins* and *voisines*, "collectively and individually present," did in the rural communities of the middle ages. In the election of guardians, the women, like the male electors, vote at home. Policemen distribute the ballots from house to house and come back a few days later to collect the votes.

(2) Side by side with the civil parish the ecclesiastical parish still maintains its existence. Its organ of government is the vestry, in the primitive sense of the term. This ecclesiastical vestry consists ot the clergyman, the churchwardens (who are *ex officio* overseers of the poor) and the parishioners. Every member of the parish, *i.e.* every ratepayer, may take part in the meetings of the ecclesiastical vestry precisely as in those of the civil vestry. Women are not excepted. That is the common-law rule. But it is worthy of remark that the written law does not favor the participation of women in the affairs of the parish. Thus so recent a law as the Public Worship Regulation Act, passed in 1874 (which authorizes parishioners to lodge with the bishop protests against the conduct of priests in regard to the observance of rites, the ceremonies of worship and the ornaments of the church[1]) declares that the term "parishioner" is to be taken to mean "a male person."

(3) Whether women are eligible to the offices of the ecclesiastical parish, is a question upon which the texts are silent. As regards the position of sexton, there is a decision of the Court of King's Bench rendered in 1739. The question was raised in the case of Olive *vs.* Ingram,[2] and gave occasion to the first

[1] 37 and 38 Vict. c. 85, sec. 6. This act was passed on account of the ritualistic movement which had made its appearance in the Church of England, and which has introduced into public worship ceremonies resembling those of the Roman Catholic ritual.

[2] 7 Mod. Rep. 263.

judicial discussion of "women's rights." It was decided that a woman could be invested with the duties of a sexton. It appears that women are equally eligible to the office of churchwarden, the only qualification required being that of an "inhabitant householder."[1] Women are likewise eligible to the position of guardian of the poor. The absence of any express provision of law has given rise to doubts on this point, but in practice the question has been settled in favor of their eligibility to the board of guardians.[2] Under the guardians of the poor there are in each parish overseers of the poor, who keep the rolls of ratepayers and make out from these rolls the lists of electors, the poor tax serving as basis for the electoral census. This office, although representative, is not elective; the overseers are appointed each year by the justices of the peace from among the "substantial householders." Judicial opinion[3] supported by long usage has decided that women can hold this position.

(4) The cities form special units of local government, and their organization is by no means uniform. A certain number of them occupy a privileged position, under the title of "municipal boroughs." These alone are municipal corporations, enjoying a considerable degree of autonomy by virtue of charters of incorporation granted in the pleasure of the crown. Of the thousand urban agglomerations with more than two thousand inhabitants each, only a quarter possess the rank of "municipal boroughs." The other cities have as such no legal existence: they are simply geographical units.[4] In past times the privilege of incorporation was often granted to wretched little hamlets. But whether they were once of consequence or not, the municipal corporations degenerated everywhere into corrupt oligarchies. The municipal reform of 1835 destroyed these hereditary cliques and extended the municipal franchise to all the inhabitants who paid the poor tax as occu-

[1] *Cf.* E. Eiloart, The Law Relating to Women (London, 1878), p. 19.
[2] *Ibid.*
[3] Rex *vs.* Stubbs (1787), 2 Durnford and East, 395.
[4] So Chalmers, *op. cit.* p. 62.

pants of realty. But in doing this, the legislator judged that the body of municipal electors would be sufficiently increased, and that the municipal autonomy (which included the direction of the police) would be sufficiently protected, without including among the voters *all* the ratepayers without distinction of sex, as was the practice in the parish. So it was expressly provided in the Municipal Corporations Act of 1835 that the electoral franchise in the municipal boroughs should belong to male persons only.[1]

Before long the unorganized condition of the larger towns that were not municipal boroughs received the attention of Parliament. It did not grant them communal autonomy, — there could be no question of that, — but conceded special powers to establish sanitary systems and to undertake works of public utility such as lighting, paving, sewerage, *etc.* The special acts passed for these purposes from time to time, as the necessity for them arose, were consolidated and made general in two statutes: the Public Health Act of 1848, for a class of towns designated as "local government districts," and the Commissioners' Clauses Act of 1847, for the cities described as "improvement commissions districts." These acts gave to these urban agglomerations an incipient municipal organization, by establishing boards of health in some, and in others commissions to direct the public works. In both these classes of "nascent, half-developed municipalities,"[2] which had scarcely emerged from the parochial phase of local self-government, the authorities — *i.e.* the members of the boards of health and the commissioners — were elected, as in the parishes, by the ratepayers without distinction of sex.

As these cities enlarged and developed, they were admitted to the honor of municipal incorporation. But since the Municipal Corporations Act limited the franchise to men, it resulted that while the city which was promoted to the rank of municipal borough saw its rights increased, a part of its inhabitants —

[1] 5 and 6 Will. IV, c. 76, sec. 9.

[2] G. Brodrick, Local Government in England (Cobden Club Essays on Local Government, ed. by Probyn: London, 1882), p. 38.

the women — saw theirs suppressed. This anomaly gave the advocates of woman suffrage a chance to demand that the ballot be granted to women in the municipal boroughs.[1] In 1869 Mr. Jacob Bright introduced such a measure in the House of Commons, and it was adopted almost without discussion.[2] So evident, as the supporters of woman suffrage said and say still, was the justice of their cause. On the other hand it may be remarked that the House had refused before 1869 (and was going to refuse after 1869) to give women the Parliamentary suffrage, although this was demanded under circumstances identical with those under which the borough franchise was granted them. From the fact that the legislature expressly excluded women from the suffrage in the Municipal Corporations Act while it gave them the ballot in parochial administration, it is perfectly clear that it meant to maintain in this regard a distinction between the elementary sphere of local interests and the higher spheres of self-government. In the same spirit, as we shall see later, a distinction has been established in Germany between the cities and the rural districts. But when the English legislator placed the administration of the "nascent, half-developed municipalities" — which were only temporarily such and which might become cities of the first rank — on the same plane, as far as the suffrage of women was concerned, with the government of the parishes, he substituted a fluctuating for a permanent test, and as a result wiped out his own line of demarcation. When this fact was brought out, Parliament could not but recognize and bow to it. This recognition was decisive: it resulted in the overthrow of the electoral barriers against women in the entire domain of local self-government. The clause which, upon the proposal of Mr. Jacob Bright, was inserted in section 9 of the municipal act of 1869,[3] found its way into the revised municipal act of 1882.[4] Section 63 of this latter act reads: "For all purposes connected with

[1] In 1869 there were in England 78 non-corporate cities in which women had the right of voting.

[2] Hansard, Parliamentary Debates, vol. cxcvi, Appendix, June 7, 1869.

[3] 32 and 33 Vict. c. 55. [4] 45 and 46 Vict. c. 50.

and having reference to the right to vote at municipal elections, words importing in this act the masculine gender include women." This clause gave women the ballot in the municipal boroughs, but did not make them eligible to office. And as the general qualification for municipal suffrage is the occupancy by the elector in his own name of a house subject to the poor tax, the law includes independent women only, not married women. Of this there was no doubt. But how if the woman be separated from her husband and have a separate dwelling upon which she pays the tax? In the case of Regina *vs.* Harrald,[1] decided in 1872, the Queen's Bench held that a woman who is neither widow nor spinster is excluded from municipal suffrage. As the lord chief-justice declared, the legislature meant only to do away with the injustice to which a woman was subjected who paid the tax and had no vote, and by no means intended to change the status of married women, who according to the common law are merged in their husbands. The court felt more doubt as to whether, if a woman were placed upon the annual list of electors at a moment when she was still unmarried, she would lose the right of voting by a subsequent marriage.[2]

When in 1881 the municipal suffrage was extended to women in Scotland, the question whether the separated woman could vote was decided in her favor.[3] But of course this does not change the position of married women in England.

(5) A year after the introduction of the municipal suffrage of women they obtained (in 1870) the school vote also, in connection with the establishment of the existing system of primary instruction. Before 1870 almost all the primary schools were private institutions based on private endowments, belonging generally to the various religious bodies. The act of 1870 provided that in those districts where the Education Department or the ratepayers themselves should find it necessary to establish public schools, there should be formed for their direc-

[1] E. L. R. 7 Q. B. 363.
[2] *Cf.* the opinion of Justice Hannen, *ibid.* 364.
[3] 44 Vict. c. 13, sec. 2.

tion a school board of from five to fifteen members, chosen by the usual electors of the municipal boroughs or the parishes,[1]— a provision which of course includes the women, except in the "city" of London. In that part of London the members of the school board are designated by those persons to whom the peculiar constitution of the city gives the right of voting for the common councilmen,[2] and this right belongs only to males.[3] As no conditions for eligibility to the school boards are laid down in the law, it has been taken to mean that no one is excluded, neither single women nor married women. The general orders of the Education Department have introduced only an age qualification.[4]

(6) It still remained for women to make their way into the local government of the county; but county government, although representative, was not elective. In 1888 county councils were established, chosen by the ratepayers. The analogy of the municipal councils demanded that women should be included among the electors of the new local assemblies. Accordingly the Local Government Act of 1888[5] admits women to the electorate in England, and the act of 1889[6] gives them the same right in Scotland. The provisions in these acts concerning the suffrage of women are borrowed from the respective municipal acts; so that in England a married woman separated from her husband is debarred from voting, but she enjoys the privilege in Scotland.[7]

Eligibility to the county councils is made, by section 2 of the act of 1888, to depend upon the same conditions as those established for the municipal councils, so that women are excluded. Certain women, however, assumed themselves to be qualified and became candidates. The widow of Lord Sandhurst and the daughter of the famous Cobden were elected in London. The county council of the metropolis, on its part,

[1] 33 and 34 Vict. c. 75, sec. 29. [2] *Ibid.* sec. 37, § 6.
[3] 12 and 13 Vict. c. 94, and 30 and 31 Vict. c. 1.
[4] Hugh Owen, The Elementary Education Acts, 1870–1880 (16th ed. London. 1884), p. 112.
[5] 51 & 52 Vict. c. 41, and County Electors Act, 51 Vict. c. 10, sec. 2.
[6] 52 & 53 Vict. c. 50. [7] *Ibid.* sec. 28, subdiv. 2, § 1.

having to choose county aldermen,[1] elected a woman as one of the aldermen. But before long the right of these women to sit and to vote was tested in the courts. Lady Sandhurst's defeated opponent obtained from the proper court a decision that the votes obtained by her were null, because cast in favor of a person not possessing the necessary legal capacity, and that he himself had been elected to represent the district. The defendant appealing, the decision rendered in first instance was upheld.[2] The two other female members of the London county council, without resigning, absented themselves from the meetings until a year had elapsed, and then resumed their seats. The purpose of this proceeding was to take advantage of section 73 of the act of 1882, which declares that the validity of an election cannot be contested after the expiration of twelve months. But one of their male colleagues, whose sense of legality revolted against seeing in the council persons who had no right to sit there, brought action against one of these ladies (under section 41 of the Municipal Corporations Act of 1882) for the recovery of a penalty of fifty pounds for each of five occasions upon which she had voted in the council. The Queen's Bench Division recognized the presence of extenuating circumstances, and condemned the defendant to pay only twenty-five pounds for each vote. The Court of Appeal was still more lenient, and taxed each vote at ten shillings.[3]

In the Local Government Act for Scotland, passed a year later than the act for England, the legislator takes care to state expressly that women are ineligible to the county councils.[4]

Before passing to the countries of the continent, it should be remarked that all the legal provisions analyzed above relate to Great Britain only, *i.e.* to England, Wales and Scotland, and do not apply to Ireland. In this last country women enjoy no

[1] Two-thirds of the town councillors and of the county councillors are elected by popular vote for a term of three years; after which the elected councillors choose the members of the last third (who are called aldermen) for a term of six years.

[2] Beresford *vs.* Lady Sandhurst, E. L. R. 23 Q. B. D. 79 (1889).

[3] De Souza *vs.* Cobden, E. L. R. (1891) 1 Q. B. 687.

[4] 52 & 53 Vict. c. 50, sec. 9.

electoral rights whatever, either in the parishes, the municipalities or the counties. To this rule there are only a few unimportant exceptions. In the city of Belfast they vote for the harbor commissioners, and in a few other places for city commissioners; but that is all.[1]

III. *Scandinavian Countries and Finland.*

(1) In Sweden local self-government is exercised in first instance, in the city and country communes, by the taxpayers in general assembly or town meeting, where their votes are reckoned in proportion to the taxes paid, according to a graded scale, just as in the English vestries. In the cities with a population above three thousand the taxpayers elect a communal council. In the smaller cities as in the rural communes the election of a council is optional. The executive organs of the commune are appointed by the town meeting, or when this body has delegated its powers to a council, by the council. In the full assemblies of the communes that have no councils, and in the elections at which councillors are chosen, unmarrried women have the same right of participation as men. They may vote in person or (making use of a right that is general) by proxies.[2]

The next higher instance of local self-government consists of provincial councils (*landstings*). All the municipal electors, women not excepted, vote for the members of these councils. In the cities the election is direct; in the rural communes it is indirect, through electors. The *landstings*, in concert with the communal councils of the large cities, elect the members of the upper house of the legislature. This body represents interests, while the lower house is based on population or numbers, each elector having the same voice in choosing its members. Thus, owing to the peculiar constitution of the upper house, the women, through their participation in the municipal

[1] *Cf.* Mrs. Ashton Dilke, Woman Suffrage (London, 1885), pp. 83, 85.

[2] Communal law of March 21, 1862: for the communes, §§ 14, 29 and 42; for the cities, except Stockholm, §§ 26, 27. For Stockholm, the law of May 23, 1872, § 5, and that of August 27, 1883.

elections, are able to exert an indirect influence in the selection of its members.

Although, as we have seen, women take part in the general assemblies and possess the communal vote in the first instance, they are not capable of being elected. Two exceptions to this rule have been established by the recent laws of March 22, 1889. One of these laws has made women eligible to the municipal poor-relief committees throughout the kingdom; the other permits their appointment to the school commission in Stockholm.

(2) In Norway women have no share in local government, except in the school administration. Their rights in this regard are defined in the law of June 26, 1889. In the cities they are eligible to the school boards which direct the public schools.[1] Those who have children can vote for inspectors. In the rural communes women play a more important part. Each of these communes is divided for the purposes of school administration into districts; and each district has its assembly, which votes supplies, decides upon other school matters and appoints the inspectors. In these assemblies all who pay the school tax take part, women as well as men. In deciding questions which do not relate to expenses, the parents of children — mothers and fathers alike — are entitled to vote even where they contribute nothing to the school funds. Women are eligible to the office of inspector.[2]

(3) In Denmark women are entirely excluded from local government; but they have been admitted to it in one Danish dependency — Iceland. This island, possessing a population of 75,000 souls, is governed by an independent legislative assembly (*Althing*), under the sanction of the King of Denmark. For the requirements of local administration, the island is divided into twenty-two districts (*sysler*), which are subdivided into cantons or communes (*hrapper*). The magistrates placed at

[1] The members of these boards are for the most part chosen by the municipal councils. Law of June 26, 1889, §§ 40, 47.

[2] *Ibid.* §§ 47, 53, 54. I am indebted to the kindness of Professor Aschehong, of the University of Christiana, for a detailed analysis of the Norwegian school law.

the head of these administrative divisions are chosen by the electors who possess the requisite property qualifications. The law of May 12, 1882, has given women the right to take part in these elections as well as in the parishioners' meetings for church affairs. Among the persons entitled to vote the law expressly includes "widows and other unmarried women who have an establishment of their own, or otherwise occupy an independent position."[1]

(4) Finland, which was attached to Sweden for centuries before it fell under the sway of Russia, is still influenced by the movement of legislation in the former mother-country. Soon after the introduction of the Swedish municipal organization which I have just analyzed, Finland reformed its own system. The law of February 6, 1865, concerning the rural communes, admitted women to communal rights under almost the same conditions as in Sweden. The communal administration in the Finnish country districts is vested, as in Sweden, in the general assembly of the taxpayers (*Communalstämma*), and in the second instance in executive committees (*Communalnâmnd*) elected in the general assemblies. The right to vote in these assemblies is accorded (§ 10) to widows, divorced women and unmarried women.

The municipal government of the cities was until a rather recent date in the hands of corporations of "burghers" — who displayed in Finland the same narrow and exclusive spirit as in other countries. The law of December 8, 1873, put an end to this oligarchic régime and conferred communal rights upon all taxpayers, women as well as men (§ 10). Every woman who is "mistress of her person and her property," *i.e.* every widowed, divorced or unmarried woman, enjoys the right of taking part in the deliberations of the communal assembly (*Râdhusstämma*) in the cities of less than two thousand inhabitants where the municipal government is direct, and also in the election of representatives (*Stadsfullmäktige*) in the cities where the deliberative powers of the general assembly are delegated to a council.

[1] Annuaire de Législation Comparée (Paris), XIII, 829.

Votes have always a relative value, in proportion to the taxes paid by the voter.

Eligibility to the office of city representative and to membership in the executive committees of the country communes is restricted to men.[1] But a recent law (August 6, 1889) has made women eligible to the poor-relief bureaus in the cities, and also in the country wherever similar bureaus exist independently of the communal committees (the *Communalnâmnd*).[2]

IV. *Germany and Austria.*

In the first section of this paper, I tried to bring out the point that whenever communal law, taking property as the criterion and eliminating the personal element, has admitted women to municipal suffrage, it has at the same time, as far as they are concerned, drawn a line of demarcation between those organs of local self-government which are essentially of a private character and those which by reason of the complexity of the public functions intrusted to them exercise an activity that resembles that of the state. In England, where the local franchise of women was limited at first to the parish vote, it has appeared necessary, on account of a combination of circumstances which I have indicated, to extend it. In Sweden, Finland and Iceland, where there are few large cities and where the difference between the city communes and the rural communes is much less pronounced than in other countries (we have seen that they are both governed directly by general assemblies), women have been admitted to communal rights in the cities as well as in the country. In Germany, where the contrast between the cities and the rural communes is very pronounced, we find for the first time a clearly drawn and strictly maintained line of demarcation between them, as regards the enjoyment of communal rights. Women are admitted

[1] Law of 1873 on the organization of cities, § 27; law of 1865 on the rural communes, §§ 13, 43.

[2] Mr. W. Chydenius, of the University of Helsingfors, has been so kind as to send me a translation of all the provisions regarding women in the laws cited.

to local suffrage in the country, but universally excluded in the cities.

It is in this way that the question has been settled in Prussia: notably in the six eastern provinces, where, side by side with cities possessing a generous measure of autonomy and exercising extended powers, there are rural communes (*Landgemeinden*), each of which is "essentially a private corporation, an association for economic purposes, to which a minimum of public work has been delegated from geographical necessity."[1] These communes have no police jurisdiction, do not coincide with the administrative divisions of a public character, and consist only of "closely-packed villages situated in the centre of a parcelled-out agricultural area which till a very late date was cultivated in common on the three-field system."[2] The law of April 14, 1856, concerning the organization of the rural communes in the six eastern provinces of the kingdom of Prussia (section 6), as well as the analogous law of March 19, 1856, for the province of Westphalia (section 15), provide that persons of female sex who possess real property carrying with it the right to vote shall be represented — the married women by their husbands, the single women by electors of the male sex. A similar provision was adopted for the province of Schleswig-Holstein, after its annexation by Prussia (law of September 22, 1867, section 11). But in the Rhine province, where the administrative and the private law still show deep traces of the French influence, women are expressly excluded from the communal franchise: section 35 of the law of July 23, 1845, amended May 15, 1856, declares that communal right (*das Gemeinderecht*) can be exercised only by the highest taxpayers — these alone were electors at that time — of the male sex.[3]

To a certain extent women take part also in the elections for the cantonal assemblies, the rural circle diets (*Kreistage*),

[1] Sir Robert Morier, Local Government in England and Germany. An essay reprinted from the Cobden Club Series on Local Government (London, 1888), p. 71.

[2] *Ibid.* p. 72.

[3] For the text of all these communal laws, see Stoeppel, Preussisch-Deutscher Gesetz-Codex, (6 vols., Hamburg, 1882).

the members of which are elected by (1) the large rural landowners and the proprietors of factories and mines who pay the heaviest taxes upon industrial enterprises carried on in the open country within the limits of the circle; (2) the independent landowners and persons engaged in the above-mentioned business pursuits who pay a smaller amount of taxes upon such business, and the representatives of the rural communes; and (3) the cities, if there are any in the rural circle. This somewhat feudal organization gives women the right of representation in the group of large landowners with its two subdivisions. The members of this group vote in their own names; and the unmarried women belonging to it vote by representatives whom they select from among the landowners.[1] The votes of the women of this group exert an indirect influence all the way up to the provincial assemblies (*Provinziallandtage*), these last being composed of deputies of the rural circles appointed by their respective circle diets, and of representatives of the large cities.

In Brunswick the rural communes law of March 19, 1850, provides that the elector must vote in person, but makes (among others) an exception permitting widows and single women to vote by proxy. Sons, stepsons or sons-in-law who are designated as proxies are not held to present a formal commission (section 22).[2]

Finally, in Saxony women are admitted to the communal vote in the country districts on the same terms as men. Section 34 of the law of April 27, 1873,[3] gives the right of voting "to all the members of the commune, excepting women not domiciled," who possess real property, *etc.*, in the commune. Married women are represented in the voting by their husbands; single women vote in person (section 16). The old communal law of November 7, 1838 (section 30) went so far as to pro-

[1] Law of December 13, 1872, on the organization of the circles, §§ 97, 98. Annuaire de Législation, II, 308, 309.

[2] Gesetz- und Verordnungssammlung für die Herzogl. Braunschweigischen Lande, 37 Jahrgang, 1850.

[3] Landgemeindeordnung für das Königreich Sachsen; Gesetz- und Verordnungsblatt vom Jahre 1873 (Dresden).

vide expressly that husbands should vote for their wives only in case they were not separated from bed and board.[1]

Eligibility to communal office is denied to women in all the countries enumerated above.[2]

In Austria, as one consequence of the revolutionary movement of 1848, the legislator endeavored to infuse fresh life into the localities by giving a liberal organization to the rural communes. The law of 1849 granted communal rights to all persons paying taxes on realty and industrial enterprises, and also to various classes of "capacities" — ministers of religion, university graduates, school principals and teachers of the higher grades, *etc.* Among the electors of the first and most important group, based wholly upon property, were included women, minors, soldiers in active service and some other classes of persons who, as a rule, were excluded from suffrage, on condition that their votes be cast through representatives.[3] Article 4 of the communal code now in force[4] provides, as regards women, that the wife living in matrimonial community exercises her electoral right through her husband; women who are independent (*sui juris*), through an agent; persons not *sui juris*, through their legal representatives. As the last clause of the above provision places no limitation upon the sex of the "persons not *sui juris*," female minors are included. On the other hand, as women separated from their husbands are not "wives living in matrimonial community," they enjoy the franchise, if they are of full age, upon the same terms as the unmarried women who are *sui juris*.[5] The ordinances of Bohemia and of

[1] In the same collection, 1838.

[2] *Cf.* for Brunswick the law of 1850, § 17; for Saxony the law of 1873, § 37.

[3] A legislative movement has begun for giving women the right to cast their communal votes in person. The diet of Lower Austria passed a bill of this character January 3, 1891.

[4] Uebereinstimmende Anordnungen der Gemeinde-Wahlordnungen, — organic laws of March 5, 1862, which have taken the place of the provisional communal law of March 17, 1849. Allgemeines Reichsgesetz- und Regierungsblatt für das Kaiserreich Oesterreich.

[5] In its earlier form (that of 1849) the communal law was more explicit upon this subject. It declared (sec. 30) that "widows and divorced and unmarried women vote by agents."

Upper Austria are silent as regards married women. In Moravia the law gives even the married woman the right to representation by an agent of her own selection in case the husband is disqualified from voting (by deprival of civil rights, *etc.*). The Moravian rule is in this respect more liberal than that which obtains in Saxony; for the Saxon law expressly provides that in such cases the woman's electoral right is suspended.[1]

The suffrage granted to "capacities" appears to be confined to persons of the male sex. The question was raised in Moravia whether the vote granted, irrespective of property qualification, to the higher grade of instructors in the public schools appointed by decree ("alle mit Decret angestellte Lehrer der Volks- und Bürgerschulen") belonged to the female teachers. The Supreme Court (*Reichsgericht*) decided that the electoral right could not be considered as extending *ipso jure* to the female instructors and that these were excluded from the suffrage.[2]

In all the territories of Austria eligibility to the executive committees is expressly limited to men.[3]

In the municipal organization of the cities, which rests mainly on the communal laws of 1849 and 1862, the legislator has not seen fit to admit the principle of representation: hence women, minors, *etc.* are excluded from municipal suffrage in the cities.[4]

V. *Russia.*

(1) The Russian village community, the *mir*, which has come down across the centuries into our own time with very few changes in its primitive organization, is a typical example

[1] ". . . so ruht das Stimmrecht." Revidirte Landgemeindeordnung für das Königreich Sachsen, 1873, § 36.

[2] Decision of October 13, 1884; Dr. Anton Hye von Gluneck, Sammlung der Erkenntnisse des Reichsgerichts, VII, 304.

[3] Section 10 of the Bohemian law; section 9 of the ordinances for the other countries.

[4] Das Gemeindegesetz vom 5 März 1862; Manz'sche Gesetzausgabe (Wien, 1875), IX, 288.

of rudimentary local self-government, where all who have an interest, not excepting the women, have a right to be heard in the common assemblies. The Russian legislator, who is certainly not loth to issue regulations, has been very moderate in his provisions regarding the *mir*. He has simply recognized established custom in declaring that

> the rural assembly is composed of the peasants who are heads of houses and who belong to the rural community, and of all the elected rural functionaries. It is not forbidden to the head of the house in case of absence or sickness or, in general, in case of inability to attend the assembly in person, to send in his place a member of his family.[1]

This right of representation is often exercised by widows and even by married women, especially in the poor provinces, where a considerable part of the male population is obliged to go to a distance in search of work. As representatives of families, of households, the women enjoy the same rights in the village assemblies as the men.[2]

In the assemblies of the *mir* only the peasants take part — only the persons who belong to "the peasant order." The other classes of the population exercise local self-government (the only kind of self-government which exists in Russia) by

[1] Code of Laws of the Russian Empire, vol. ii, art. 2191.

[2] "In matters affecting the general welfare of the commune they rarely speak, and if they do venture to enounce an opinion on such occasions they have little chance of commanding attention, for the Russian peasantry are as yet little imbued with the modern doctrines of female equality, and express their opinion of female intelligence by the homely adage: 'The hair is long, but the mind is short.' According to one proverb seven women have collectively but one soul, and according to a still more ungallant popular saying, women have no souls at all, but only a vapor. Woman therefore as a woman is not deserving of much consideration, but a particular woman as head of a household is entitled to speak on all questions directly affecting the household under her care. If for instance it be proposed to increase or diminish her household's share of the land and the burdens, she will be allowed to speak freely on the subject, and even indulge in a little personal invective against her male opponents. She thereby exposes herself, it is true, to uncomplimentary remarks; but any which she happens to receive she will probably repay with interest — referring perhaps with pertinent virulence to the domestic affairs of those who attack her. And when arguments and invectives fail, she is pretty sure to try the effect of pathetic appeal, supported by copious tears — a method of persuasion to which the Russian peasant is singularly insensible." — Sir Donald Mackenzie Wallace, Russia (London, 1887), p. 129.

means of "territorial assemblies," composed of representatives of all classes. The members of these assemblies are elected in some cases directly, in other cases through the mediation of electors, by those who pay taxes upon real property (whether they are physical or juristic persons), grouped in electoral colleges according to their social class, and also by the rural peasant communities. Each district has its territorial assembly. Delegates from the district assemblies form the provincial assembly, which corresponds more or less to the French *conseil général* or the English county council. In the electoral colleges which choose the members of the territorial assemblies (or the electors who are to choose the members), women, married and unmarried, are permitted to vote through agents. They may select as proxies their fathers, husbands, stepsons, grandsons, brothers or nephews, even when these persons do not themselves possess the requisite property qualifications.[1] It will be remarked at once, that the married women are as free to select their representatives as are the unmarried women: they can pass over their husbands in favor of their fathers, nephews, *etc.* Then it should be noted that before 1890[2] a woman could choose as her representative any male person who had the right of voting in the electoral college.[3]

In the self-government of the cities also, which is exercised by councils elected by various classes of taxpayers, women have votes. They vote by representatives, whom they may select either from among the members of their families (fathers, husbands, sons, stepsons and brothers), in which case the representative is not held to show any property qualification of his own, or from among such outsiders as possess all the qualifications for the municipal electorate.[4] It is in this last point that the difference lies between a woman's delegation of her municipal vote and the transfer of her "territorial" suffrage. The distinction is due solely to the fact that the municipal organization is still regu-

[1] Statute of June 12, 1890, on the territorial institutions, arts. 18, 21.

[2] The charter of local self-government granted by Alexander II in 1864 was replaced by a new statute in 1890.

[3] Russian Code, vol. ii, art. 1834.

[4] *Ibid.* art. 1967.

lated by the law of Alexander II (the law of 1870) which, like the same Emperor's "territorial" law, gave women full freedom in the choice of their proxies. This inequality will probably disappear when the revision of the organic laws of Alexander II, which has been under way for some time, is completed.

As elective local government in Russia begins with the lowest "order" in the state, the peasants, so it ends with the highest "order," the nobility. Since the reforms of Alexander II, the body of the nobility has been almost stripped of political importance. It is rather a corporation with interests of a private nature, such as the guardianship of noble persons and the assistance of orphans. The marshal of the nobility, elected in the general assembly of the order, presides *ex officio* over the territorial assembly and over various other administrative councils; and it is only through him that the nobility can make its influence legally felt in local government. The noble woman who owns real property carrying with it the right to take part in the elections of the order, can transfer her right to her husband, son or stepson, even when they do not possess the qualification required by the law. In case she has none of the relations mentioned or in case they are unable to act for her, she can delegate to an outsider either her full right or simply the right to vote in the elections without taking part in the deliberations and other decisions of the assembly.[1]

Except in the Austrian province of Moravia, we have hitherto in our study of the part played by women in local self-government encountered nothing like this public emancipation of married women. But in the great Slavic empire the position assigned to married women in local affairs is simply a consequence of their civil status. Married women enjoy there all the civil rights of the *feme sole* — to use the Anglo-Norman term. As the various elective bodies noticed above are deprived by the peculiar constitution of the empire of the Czars, if for no other reason, of anything resembling a political character, and have charge of economic interests only, the married woman,

[1] Code, vol. ix, arts. 111, 125.

emancipated by the civil code, simply carries her civil status with her when she enters the domain of local self-government as a landowner and taxpayer.

Thus we see that in the Teutonic and in the Slavic world where participation in local self-government does not depend upon citizenship, or membership in the body politic, but upon the possession of realty or, at least, upon the possession of a certain income, women are often, if not always, invested with local suffrage on this ground. In the Latin world, on the other hand, where communal right coincides nearly if not altogether with political citizenship, women are invariably excluded from any participation in the management of the common affairs. In Italy repeated attempts have indeed been made to secure for women "administrative suffrage," but they have come to nothing. Switzerland — a country which is at once Latin and Teutonic, and in whose Romanic and German cantons the two ideas of municipal organization which I have contrasted are well exemplified — confirms my general observation to a certain extent by the different attitudes of different cantons respecting the admission of women in local administration. While in Geneva and Vaud women were excluded from municipal affairs, the municipal law of the canton of Berne, December 6, 1852, conferred the right of proxy-voting upon independent women held to the payment of the communal tax (article 22). The Bernese women at first made no use of this right; but in 1885, urged on by the rival parties, they descended into the fray and arrayed themselves behind the combatants. In this instance the assumption that the women's votes represented only the economic interests of which they had charge proved false; their right to vote in municipal elections while they were still excluded from political elections consequently appeared incongruous; and after the election in which they had for the first time made use of their franchise, it was taken from them.[1]

[1] Professor Hilty, of the University of Berne, has had the kindness to furnish me with information regarding the abrogation of the law of 1852.

VI. *The English Colonies.*

The non-European countries in which the question of the participation of women in local self-government has been raised are the English colonies and the United States of North America. In the English colonies the question has been decided in the same way as in the mother-country, *i.e.* independent women who are taxpayers have received the local franchise. As in England, the right to vote depends most frequently upon the possession or the occupation of real property, and the number of votes which may be cast by one voter is determined by the taxable value of the property.

(1) In the Dominion of Canada local suffrage has only recently been granted to women. The first law regulating this matter was passed in the province of Ontario (Upper Canada) in 1884. This law has served as an example, and in part also as a model, for the other provinces. The electoral rights granted to women by the legislation of the province of Ontario may be grouped under four heads: (*a*) participation in municipal elections, (*b*) participation in municipal *referenda*, (*c*) participation in school-board elections and (*d*) eligibility to office. All unmarried women and widows twenty-one years of age, subjects of her Majesty and paying municipal taxes on real property or income, may vote in municipal elections.[1] In those cases where by law the consent of the taxpayers is necessary in order to make of force the decision of the town council, all women may vote who have the qualifications mentioned above.[2] Further, every taxpayer who contributes to the maintenance of the public schools may vote at all elections for school trustees as well as at all meetings where school questions are decided.[3] Women, it seems, have since 1850 possessed the right to vote for school trustees. Finally, all taxpayers resident in the school district are recognized by the laws of 1885 and 1887[4] as eligible to the office of school trustee.[5]

[1] Revised Statutes of Ontario (1887), c. 184, part iii, title i, division 1, sec. 79.
[2] *Ibid.* sec. 308.
[3] *Ibid.* c. 225, sec. 14.
[4] 48 Vict. c. 49, sec. 107, and 50 Vict. c. 39, sec. 23.
[5] *Ibid.* secs. 13 and 106.

In the other provinces of the Dominion the provisions as to the local suffrage of women are even more liberal.[1] In Nova Scotia the right to vote is granted also to married women whose husbands do not have the right to vote.[2] In British Columbia and Manitoba the suffrage is given to all married women of age.[3] Finally, in the Northwest Territory the municipal franchise is given to widows and unmarried women.[4] Female suffrage does not exist in the great French-speaking province of Quebec (Lower Canada), in New Brunswick or in Prince Edward Island.

(2) Australasia. In almost all the continental colonies the municipal suffrage rests upon the same basis as does the parish franchise of the mother-country, *i.e.* the possession or occupation of real property. The number of votes which may be cast by each voter also depends, as in the mother-country, upon the amount of taxes paid; and no distinction is made among the taxpayers as regards sex.[5] In New Zealand women have the right of voting in all local elections on the same conditions.[6] In Tasmania the suffrage was at first granted to men only; but an act of 1884 extended it in the rural districts to women, under the same conditions both as to property qualifications and as to plurality of votes as exist in the rest of Australasia.[7]

VII. *The United States.*

Here, up to the present time, the question of the municipal suffrage of women has received an entirely different answer. Despite a most spirited agitation women have not been able to

[1] For information as to the legislation of these provinces I am indebted to the kindness of Dr. J. G. Bourinot, Clerk of the House of Commons of Canada.

[2] Law of May 3, 1887; Statutes 1887, c. 28.

[3] Revised Statutes of British Columbia (1888), c. 88; Statutes 1889, c. 34; 1890, c. 34, secs. 12 and 13; Statutes of Manitoba 1887, c. 10 (law of June 10, 1887).

[4] Revised Ordinances of 1888, c. 8, secs. 18 and 19.

[5] New South Wales Municipal Law of 1867; Victoria Municipal Law of 1869, amended in 1875; Western Australian Municipal Law of 1871, amended (Statutes, ed. 1883); South Australian Municipal Law of 1880, *etc.*

[6] Municipal Corporations Act of 1886; Counties Act of same year, *etc.*

[7] Rural Municipalities Amendment Act of 1884, sec. 4.

obtain the right to vote, much less the right of eligibility to office. They have, with difficulty, succeeded in getting the right to vote in municipal elections in a single state, *viz.* Kansas.[1] An act of 1887 grants to women in Kansas the right to vote in cities of the first, second and third classes at any election of city or school officers, or for the purpose of authorizing the issue of bonds for school purposes; and any woman qualified to vote is also made eligible to any such city or school office.[2] In other states it has been repeatedly proposed to extend the municipal franchise to women, but the proposition has uniformly been rejected. This result is doubtless due to the fact that almost everywhere in the Union municipal suffrage is independent of property qualifications. The proposal to extend it to women is thus presented under the same conditions as the proposal to grant them the political franchise, and arouses the same resistance.[3] But several states, while refusing to grant to women general suffrage either in the sphere of local self-government or in that of state government, have admitted women to a special domain administered by elective assemblies, *viz.* to that of the primary public schools. The electors, or those who contribute to the maintenance of the schools, elect annually the members of the school committees and the superintendent for the county, and vote the expenses and the taxes or loans necessary to defray them. Several states have granted to women simply the right of being elected to school offices, provided always that they possess the qualifications prescribed for men. The question is thus decided in California, Illinois, Indiana, Iowa, Louisiana, Maine, Pennsylvania and Rhode

[1] Exception is of course made of the state of Wyoming, where women have obtained the municipal franchise as one of the consequences of their political enfranchisement. Law of Dec. 13, 1879, sec. 20; Constitution (1889), art. i, sec. 3; art. vi, sec. 1.

[2] Session Laws of 1887, c. 230 (law of Feb. 15, 1887).

[3] *Cf.* the discussion of the female suffrage bill in the Massachusetts legislature in 1877. While the members of the committee to which the bill was referred differed in many respects, they were unanimous in declaring that if the suffrage were dependent on property qualifications, there would have been no difficulty in extending it to women. Appleton's Cyclopædia, 1878, p. 525.

Island.[1] Massachusetts adopted at first the same line of policy, declaring that no person should be considered as ineligible to the school board by reason of sex;[2] but later this state granted to women the right to vote for members of these boards.[3] Some of the other states have proceeded in the same manner. At the present time the system of granting to women both rights — eligibility and suffrage — in school matters has been adopted in the following states besides Massachusetts: Colorado, North and South Dakota, Idaho, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, Oregon, Vermont, Washington and Wisconsin and the territory of Arizona.[4] Of course to this list must be added Wyoming, where women vote at all elections, and Kansas, where they possess complete local suffrage.

Finally, Kentucky and Nebraska admit women only to the

[1] Political Code of California, sec. 1593, par. 1, as amended April 7, 1880 (Statutes 1880, c. 80, sec. 14); Revised Statutes of Illinois (1874), c. 122, secs. 98, 99 (law of April 3, 1873); Revised Statutes of Indiana (1881), sec. 4540 (law of April 14, 1881); Acts of Iowa, 1876, c. 136, sec. 1 (law of March 17, 1876); Constitution of Louisiana (1879), art. 232; Revised Statutes of Maine (1883), title ii, c. 11, sec. 18 (law of Feb. 26, 1881); Constitution of Pennsylvania (1873), art. x, sec. 3; Constitution of Rhode Island, art. ix, sec. 1, and Public Statutes (1882), c. 50, sec. 4.

[2] Public Statutes of Massachusetts (1882), c. 44, sec. 21 (law of June 30, 1874).

[3] *Ibid.* c. 6, sec. 3 (laws of April 16, 1879, and April 9, 1881). *Cf.* also Acts 1884, c. 298, sec. 4; 1887, c. 249, sec. 1; 1888, c. 436, secs. 4, 10.

[4] General Statutes of Colorado (1883), c. 97, sec. 45, and Constitution (1876), art. vii, sec. 1; Constitution of North Dakota (1889), art. v, sec. 128; Constitution of South Dakota (1889), art. vii, sec. 9; Constitution of Idaho, art. vi, sec. 2, and Idaho Elections Law of Feb. 25, 1891, sec. 2; Public Acts of Michigan, 1881, No. 158 and No. 164, c. 2, sec. 17, c. 3, sec. 4 (Howell's General Statutes, 1882, secs. 781, 782, 5049. Women may not vote in city school elections; Mudge *vs.* Stebbins, 59 Mich. 165); Minnesota Laws, 1876, c. 14, sec. 1, and 1885, c. 204 (Kelly's General Statutes, 1891, sec. 3302. Constitutionality upheld in State *vs.* Gorton, 33 Minn. 345); Law of the territory of Montana, March 8, 1883, and Constitution of the state of Montana (1889), art. ix, sec. 10; General Laws of New Hampshire (1878), c. 87, sec. 6, and c. 89, sec. 1; New Jersey Public Instruction Act (Revision) March 27, 1874, sec. 31, and Public Laws of 1887, c. 116; New York Laws, 1880, c. 9, sec. 1, and Public Instruction Law as amended June 15, 1886, Laws 1886, c. 655 (Throop's Revised Statutes, 1889, pp. 1288, 1329); Oregon Laws of Oct. 18, 1878, sec. 8, and Oct. 26, 1882, sec. 13 (Miscell. Laws, 1887, secs. 2609, 2637); Revised Laws of Vermont, secs. 524, 2659; Constitution of Washington, art. vi, sec. 2, and School Law of March 27, 1890, secs. 58, 78; Revised Statutes of Wisconsin (1878), c. 27, sec. 513, and Laws 1885, c. 211 (submitted to popular vote and carried November, 1886); Revised Statutes of Arizona (1887), sec. 1527.

school franchise, and that only under special conditions.[1] As a general rule the right to vote in school elections or to participate in the school-district meetings depends not only upon conditions of age and residence, but also upon the obligation to pay taxes or the possession of the political franchise. The Nebraska law grants the vote to taxpayers, male and female, but also to all parents who have children of school age residing in the district. The Kentucky law grants the right to vote in all school matters without any property qualification to all widows having children between the ages of six and twenty years; widows without children and spinsters, who are absolutely denied the right to vote at elections for school trustees, are, if taxpayers, allowed to vote upon the imposition of taxes for the maintenance of the schools.

VIII. *Delegation of the Property Qualification.*

If a woman cannot vote in person or by proxy, can she, in those countries where a property qualification exists, communicate to another a property qualification necessary to vote? Can she thus make or contribute to the making of an elector?

In Italy this right exists both in elections for the legislature and in the case of communal and provincial elections. In the first, a woman may provide the entire qualification for a man; in the other two, a widow or independent woman may complete the property qualification of her son or son-in-law whom she shall designate.[2] Outside of Italy there are two countries which admit of this transfer of a property qualification in local elections. These are Belgium and Roumania. In the case of the provincial and communal elections in Belgium a widow who possesses the necessary qualification may delegate it to that one of her sons or, in default of sons, to that one of her sons-in-law whom she shall appoint.[3] In Roumania a widow or single woman of age may thus

[1] Common School Law of Kentucky, May 12, 1884, art. 3, sec. 2, art. 8, sec. 1 (Bullit and Feland, General Statutes, 1887, c. 96a); Compiled Statutes of Nebraska (Brown and Wheeler, 1889), c. 79, subdiv. 2, sec. 4, as amended by Laws 1883, c. 72, and 1889, c. 78.

[2] Communes Law, art. 21.

[3] Code Électoral of May 18, 1872, art. 11.

cause her son, son-in-law, father or brother to profit by the taxes paid by her and procure for one of them the communal franchise.[1] Such is the influence, very indirect indeed, offered to women by means of the power to transfer a property qualification — the lowest step in the exercise of electoral rights.

It will be seen from this study that in the domain of local self-government women are admitted to the franchise in England, including her colonies; in Sweden, Iceland, Finland and Russia; and in two states of the American Union, *viz.* Wyoming and Kansas. In Austria, Prussia, Saxony and Brunswick they vote in the rural communes only. Further, women have the franchise in school elections in Norway and in fifteen states of the great American republic. Eligibility to office is granted them only in school administrations (in England, Norway, in the Swedish capital and in more than half of the states of the American Union), in the poor-law administration (in England, Sweden and Finland), and, as regards municipal offices generally, in Wyoming and Kansas. In Russia (except in the case of the village assemblies), in Austria and in Prussia female electors may vote only by proxy, but everywhere else they have the right to vote in person.

Both in its origin and in its nature female suffrage in local self-government, in most countries where it exists, is anything but the recognition in women of individual rights. First realized under the amorphous conditions of the village community, admitted later in most cases as a sanction of the civil status of women, this franchise appears to be simply the expression of concrete economic interests behind which human personality, as such, disappears; and in this sense it is independent of modern public law and democratic principles.[2]

M. OSTROGORSKI.

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[1] Communal law of April 5, 1874, sec. 22.

[2] For a full survey of the question of women's rights from the standpoint of comparative history and legislation, see the writer's forthcoming volume, to be published by Arthur Rousseau, Paris.